

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

CRAIG MOSS,	)	CIVIL ACTION NO. 1:18-cv-2122
Plaintiff	)	
	)	(JONES, D.J.)
v.	)	
	)	(ARBUCKLE, M.J.)
OFFICER ANDREW MILLER, <i>et al.</i>	)	
Defendants	)	

MEMORANDUM

Presently before the Court is Plaintiff's Petition for Leave to Amend (Doc. 25). The Petition will be GRANTED.

**Background of this Order.**

On November 5, 2018, this Court received a Notice of Removal from the York County Court of Common Pleas by Defendant Andrew Miller. A Motion to Dismiss for Failure to State a Claim (Doc.8) and a Brief in Support (Doc. 9), was filed by Defendant Miller on November 9, 2018. By Court order, Plaintiff was directed to file a Brief in Opposition to the Motion to Dismiss on or before December 3, 2018 (Doc.10).

On November 26, 2018, the court received a letter from Plaintiff notifying the court that "It was his understanding that Defendant Miller has moved to have the pleading "inititized" (sic) in the York County Court of Common Pleas to this Honorable Court. To date I have not received notice from the Defendant's

Attorney or the Court pursuant to this matter and would ask this Court for verification pursuant to this matter” (Doc. 12).

In response to this request, the Court instructed the Clerk of Court to re-mail documents 6 (Standing Practice Order), 7 (Order directing Plaintiff to file a Brief in Opposition to Defendant’s Motion to Stay Proceedings or before November 28, 2018) and 10 (Order directing Plaintiff to file a Brief in Opposition to Defendant’s Motion to Dismiss on or before December 3, 2018) to the Plaintiff, along with a copy of the order; Defendant Miller was instructed to re-mail documents 4 (Motion to Stay Proceedings), 8 (Motion to Dismiss) and 9 (Brief in Support of the motion) to the Plaintiff and file an appropriate certificate of service (Doc. 14).

A certificate of service to Plaintiff was filed by Defendant Miller on December 3, 2018 with a service date of November 30, 2018 (Doc. 17).

Plaintiff filed a Motion for Extension of Time to Respond to Motion on December 6, 2018 (Doc. 18) and the Court granted that motion on December 6, 2018 requiring Plaintiff to answer the motion by January 18, 2019.

Rule 15 of the Federal Rule of Civil Procedure requires:

1. Amending as a Matter of Course. A part may amend its pleading once as a matter of course within:
  - A. 21 days after serving it, or
  - B. If the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

To determine the timeliness of the motion I note that the court was closed on December 24 and December 25 for the holiday, the Defendant's Certificate of Service was dated November 30, 2018 to Plaintiff, and the Plaintiff's Motion to Amend to the court is dated December 26, 2018. Plaintiff could have amended his complaint without leave of court on that date. For these reasons, the court will GRANT the motion to amend.

The local rules require that a copy of an amended complaint must be attached to the motion to amend:

**LR 15.1 Amended Pleadings.**

**(a) Proposed amendment to accompany the motion.**

When a party files a motion requesting leave to file an amended pleading, the proposed amended pleading must be retyped or reprinted so that it will be complete in itself including exhibits and shall be filed on paper as a separate document or, in the Electronic Filing System, as an attachment to the motion.

However, the plaintiff is proceeding *pro se* and did not chose this forum. For that reason, his non-compliance with the local rule will be excused in this one instance. Although the court is liberal with pleadings filed by *pro se* parties, that cannot be a license for this plaintiff to ignore the procedural rules (both federal and local) in the future. Plaintiff is cautioned that he must review and follow the rules to the best of his ability. Order to Issue.

Date: January 7, 2019

BY THE COURT

s/William I. Arbuckle  
William I. Arbuckle  
U.S. Magistrate Judge